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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,237	02/22/2007	Jyunichi Samo	0666.2870000/TGD/JHH	4121

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

COLEMAN, KEITH A

ART UNIT	PAPER NUMBER
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3747

MAIL DATE	DELIVERY MODE
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10/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,237	Applicant(s) SAMO ET AL.	
	Examiner KEITH COLEMAN	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakaguchi et al. (US Patent Publication 2004/0163622).

With regards to claim 1, the patent to Sakaguchi et al. discloses a first lever (34, See Figures 2-3) **interlockingly connected** to a rotary speed setting lever (39, See Figures 2-3); a second lever (34b, See Figure 3) pivotally supported by the first lever and a third lever (31c, See Figure 3) pivotally supported by the second lever, its rotation amount **regulated** by the second lever and interlocked with **a** governor weight (24), characterized in that an elastic member (37, See Figure 5) is provided between the first lever and the second lever so as to **bias** the levers for decreasing **a** rotary speed **of an engine** for a fixed amount **a** time of low speed rotation, and a set load changing means for the elastic member (37) is **attached to** the first lever near the elastic member (37). Using broadest reasonable interpretation, 'interlock' is defined as to fit (parts) together to ensure coordinated action. Thus, all parts are interlocked in Figures 3 and 5.

Art Unit: 3747

With regards to claim 6, the patent to Sakaguchi et al. discloses wherein the governor weight (24) acts directly on the third lever (31c, See Figure 3).

With regards to claim 7, the patent to Skinner discloses wherein the governor device is enclosed in a crankcase comprising an opening that allows adjustment of the set load changing means (See Figures 1 and 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

Art Unit: 3747

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi et al. (US Patent Publication 2004/0163622) in view of Skinner (US Patent No. 4,355,609)

With regards to claim 2, the patent to Sakaguchi et al. discloses all the limitations of the claimed subject matter including using a elastic or spring mechanism 37 except positively disclosing a bracket for the elastic member at the side of the first lever is constructed by an elastic plate, the elastic plate touches an outer peripheral surface of an adjusting shaft, and a distance between the outer peripheral surface of the adjusting shaft and an axis is changed by stages.

The patent to Skinner discloses wherein a bracket (i.e. rubber bellows housing the magnets 23, 22, Col. 2, Lines 35-40) for the elastic member (24) at the side of the first lever (16, See Figure 1) is constructed by an elastic plate (i.e. rubber bellows), the bracket (24) touches an outer peripheral surface of an adjusting shaft (magnets 22, 23, See Figure 1, appears to project from the levers 16 and 12 as a shaft), and a distance between the outer peripheral surface of the adjusting shaft (22, 23) and an axis is changed by stages (via rubber bellow, See Figure 1, Col. 1, Lines 10-25), and wherein the bracket for the elastic member (24) at the side of the first lever (16) is constructed

Art Unit: 3747

by an elastic plate (i.e. rubber bellow or plates). Using broadest reasonable interpretation, the bellows are interpreted as rubber or elastic plates and since a shaft is defined as a column or any tubular or pillar-like supporting structure, the magnets shown in Figure 1 are interpreted as an adjusting shaft. As to the stages, Skinner discloses that the apparatus is necessary for adjusting fuel operations or stages for normal, idling, and start-up engine speeds.

Since both patents are analogous art and both elastic mechanisms (spring and bellows) were known at the time the invention was made, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute the spring mechanism of Sakaguchi et al. with an elastic in view of the teaching to Skinner in order to properly retract and expand the levers depending on engine speed.

With regards to claim 3, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of wherein a rotation limiting member (16) is projected from one of ends of the adjusting shaft (22, 23), and a projection (19, Col. 2, Line 29) which can touch the rotation limiting member (near 19, the end of member 16, See Figure 1) is provided on a plate (the housing, See Figure 1) supporting the adjusting shaft (22, 23, See Figure 1). As shown in Figure 1, the first lever (16) is also interpreted as being a rotation-limiting member.

With regards to claim 4, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of

Art Unit: 3747

wherein an engaging part (20, Col. 2, Line 33) for an adjusting operation means is formed on one of sides of the adjusting shaft (22, 23, See Figure 1).

With regards to claim 5, the combination of Sakaguchi et al. and Skinner discloses all the limitations of the claimed subject matter including Skinner disclosure of wherein the elastic member (24) and the adjusting shaft (22, 23) are provided oppositely to a pivotal support part (13, Col. 2, Line 13) of the first lever (16) and the second lever (12, See Figure 1).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moriwaki et al. (US Patent No. 7,357,105) shows the current state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEITH COLEMAN whose telephone number is (571)270-3516. The examiner can normally be reached on 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on (571)272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3747

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAC

/K. C./

Examiner, Art Unit 3747

/Stephen K. Cronin/

Supervisory Patent Examiner, Art Unit 3747